

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2010-132-W - ORDER NO. 2011-41  
JANUARY 7, 2011

IN RE: Application of May River Water Company,	)	ORDER RULING ON
Incorporated for Adjustment of Rates and	)	MOTION TO DISMISS
Charges	)	AND OTHER
	)	PROCEDURAL
	)	MATTERS

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the motion of May River Water System (“May River” or “Company”) to dismiss the May River Property Owners’ Association, Inc. (“MRPOA”) as an Intervenor in this case, based on the fact that the MRPOA has filed notice that it has determined to proceed without representation in this matter. Individual members of MRPOA have responded to the Motion, and May River has filed an Answer to that response.

This Commission is reluctant to dismiss any party to a proceeding. Clearly, the MRPOA was represented by an attorney when it intervened as a party of record. Since that time, however, the MRPOA has determined to proceed without representation. However, the MRPOA may not proceed as a party of record in this Docket without representation by an attorney. 26 S.C. Code Ann. Regs. 103-804 T (Supp. 2010) describes the parameters of representation before this Commission. As pointed out in the regulation, an individual may represent himself or herself in any proceeding. The

remainder of the Regulation limits representation of other parties to an attorney authorized to practice law in the State of South Carolina. This regulation is reflective of the South Carolina Supreme Court's rulings, which have held as follows: "A natural person may present his own case in court or elsewhere, although he is not a licensed lawyer. A corporation is not a natural person. It is an artificial entity created by law. Being an artificial entity it cannot appear or act in person. It must act in all its affairs through agents or representatives. In legal matters, it must act, if at all, through licensed attorneys." See State ex rel. Daniel v. Wells, 191 S.C. 468, \_\_\_, 5 S.E. 2d 181, 186 (1939) *citing* Clark v. Austin, 101 S.W. 2d 977, 982 (1937). Consequently, although we decline to dismiss the MRPOA as a party of record at this time, we hold that it may not proceed as a party of record in this case without attorney representation, since it is a corporation. Of course, should the MRPOA retain new counsel by the time of the hearing in this case, the MRPOA could continue to participate as a full party of record in this proceeding.

The question has arisen with regard to the status of the individual members of the MRPOA, and whether or not they are parties of record as individuals. Prior counsel to the MRPOA and certain individual members of the MRPOA have asserted that language in the original Petition to Intervene filed by the MRPOA was sufficient to request party status for the MRPOA's individual members. We reject this reasoning, as we do not find any language in the MRPOA's Petition to Intervene that would allow us to confer party status on the MRPOA's individual members. Certainly, no individual members of the MRPOA were specifically named in the original MRPOA Petition to Intervene, nor were

they referenced as proposed intervenors in any other relevant documents. No facts have been identified from which the nature of their alleged rights or interest could be determined, the grounds of their purported intervention, or their position in the proceeding. See 26 S.C. Code Ann. Regs. 103-825.A (3) (Supp. 2010). Consequently, none of the individual members of the MRPOA are parties of record in this case, nor, specifically, do any of the members have the right of cross-examination of witnesses.

Having made these rulings, however, we would hasten to add that any member of the public, including the individual members of the MRPOA, may be heard by this Commission during the merits hearing on this case. If, for example, Mr. Highsmith – whose prefiled written testimony had previously been submitted by the MRPOA – appears at the hearing and wishes to adopt his written Association prefiled testimony as his own individual testimony to the extent of his personal knowledge as a member of the public, this Commission will consider it.

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This Order shall remain in full force and effect until further order of the Commission.

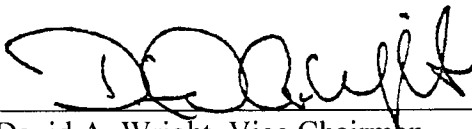
BY ORDER OF THE COMMISSION:



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John E. Howard, Chairman

ATTEST:



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David A. Wright, Vice Chairman

(SEAL)